



Attorney's Docket No.: «Matter Matter ID»

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Charles C. Packham et al.  
Serial No. : 09/422,758  
Filed : October 21, 1999  
Title : SHAVING SYSTEMS AND FOILS

Art Unit : 3724  
Examiner : C. Goodman

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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REPLY BRIEF

Pursuant to 37 CFR 1.193(b)(1), Applicant responds to the new points raised in the Examiner's Answer as follows.

A. The Filing of an Information Disclosure Statement Does not Create a Presumption of Enablement of Cited References

At page 6 of the Answer, the Examiner states:

Pranjko is a reference that the Appellant cited in the IDS filed on September 25, 2000, Paper No. 9. The fact that the Appellant had submitted this reference carries a presumption that the reference is enabling. Under 37 CFR §1.56, the Appellant fulfilled the Appellant's duty to disclose information that is material to the patentability of the invention in the manner prescribed by §§ 1.97(b)-(d) and 1.98. Therefore, any of the references that the Appellant cites is presumed to be enabling to the extent they are presumed to be material to the patentability of the invention.

The Examiner's logic fails in the assumption that the listing of a reference in an IDS is an admission of materiality. This is clear error. As is provided in 37 CFR 1.97(h):

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I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b).

Applicants otherwise stand by their arguments at pages 7-11 of their brief as to non-enablement of Pranjko.

**B. Pranjko Does not Disclose Features of the Independent Claims**

Because the Pranjko reference consists of drawings and has no text, the drawings must speak for themselves. If the drawings are vague or equivocal with respect to a claim feature-- i.e., everything that is shown is consistent with having a particular claim feature and is also consistent with not having that claim feature--, then the drawings do not disclose that feature explicitly or under principles of inherency, and the rejection on anticipation must fail. This is not a case where the text can clear up something that is vague or equivocal from the drawings alone.

At pages 9-12, the Examiner in essence says that he does not see dips or flats but instead sees smoothly curved surfaces such that the various limitations of claims 1, 16, 17 and 50 are met. Applicants submit that, while the drawings may not actually show a dip or a flat surface, they are so vague that they are consistent with depicting a device having a dip or a flat surface and thus do not explicitly or inherently disclose the curved surfaces required by independent claims 1, 16, 17 and 50, and the rejection of these claims as anticipated by Pranjko must fail.

While applicants have pointed out some of the deficiencies in the reasoning in the Examiner's Answer, applicants' failure herein to address other points in the Answer should not in any way be deemed an admission or acquiescence in other arguments raised therein.

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For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed.

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Respectfully submitted,

Date: Tue 17, 2004

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